



REPORTABLE
IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO(S).1944 OF 2011

**M/S. PIAGGIO VEHICLES
PVT. LTD.**

....APPELLANT(S)

VERSUS

STATE OF U.P. & ORS.

....RESPONDENT(S)

J U D G M E N T

Mehta, J.

1. Heard.

2. This appeal is preferred by the appellant, M/s. Piaggio Vehicles Pvt. Ltd.¹, for assailing the judgment and order dated 15th October, 2009 passed by the Division Bench of the Allahabad High Court² in Civil Miscellaneous Writ Petition No.47482 of 2008 whereby, the aforesaid petition under Article 226 of the Constitution of India preferred by the appellant-company was dismissed, thereby affirming the order dated 25th August, 2008 passed by the Joint

¹ Formerly known as M/s. Piaggio (India) Pvt. Ltd. Hereinafter, referred to as “appellant-company”.

² Hereinafter, referred to as “High Court”.

Managing Director of the Uttar Pradesh State Industrial Development Corporation (now Uttar Pradesh State Industrial Development Authority)³.

3. By order dated 25th August, 2008, UPSIDA forfeited the lease of Plot No. A-1, Site-B, admeasuring 33 acres at Surajpur Industrial Area, District Gautam Budh Nagar, Uttar Pradesh which had been granted under lease deeds dated 19th March, 2002 and 10th July, 2007. The former lease deed was executed in favour of M/s. Piaggio India (P) Ltd., while the latter was executed in the name of the amalgamated entity, M/s. Piaggio Vehicles Pvt. Ltd. i.e., the appellant-company. The forfeiture was on account of breach of terms and conditions stipulated under sub-clauses (e) and (o) of Clause 3 read with Clause 5 of the lease deed i.e., for failing to complete construction of the factory building within the stipulated period or the extended time permitted thereunder. By the very same order, UPSIDA also

³ UPSIDA was formerly known as the Uttar Pradesh State Industrial Development Corporation (UPSIDC). UPSIDC was merged into and reconstituted as UPSIDA pursuant to the Uttar Pradesh State Industrial Development Corporation Limited (Transfer of Assets and Liabilities) Ordinance, 2018 (promulgated on 27.06.2018), and the subsequent UPSIDC Limited (Transfer of Assets and Liabilities) Act, 2018 (enacted on 10.09.2018). Hereinafter, referred to as “UPSIDA”.

notified its intent to re-enter the plot and to forfeit the premium paid by the appellant-company.

4. Before we delve into the factual and legal aspects of the matter, it would be apposite to refer to the proceedings which transpired after the order of forfeiture.

5. The High Court, *vide* order dated 12th September, 2008 passed in the captioned writ petition, directed the parties to maintain status quo, which continued till the dismissal of the writ petition.

6. Being aggrieved by the dismissal of the writ petition, the appellant-company approached this Court by way of this appeal by special leave, and the interim protection was extended *vide* order dated 27th October, 2009. The stay order was further modified on 6th November, 2009, restraining the respondents from taking possession of the subject plot. Leave in the matter was granted on 8th February, 2011.

7. During the pendency of the civil appeal, the appellant-company approached the concerned authorities for a settlement but the same did not fructify. Again, on 17th January, 2017, this Court directed the Managing Director, UPSIDA, to deliberate upon the possibility of an amicable

settlement. The appellant-company was granted liberty to make a representation to the Managing Director, UPSIDA, for attempting a settlement which ultimately did not materialise.

8. On 6th March, 2024, considering the submissions advanced by the learned Counsel representing the appellant-company, this Court passed the following order:-

“Mr. Tarun Gulati, learned senior counsel appearing for the appellant, makes the following submissions:

(1) That the total outstanding dues as communicated by the Regional Manager of Uttar Pradesh State Industrial Development Authority (for short, “UPSIDA”) was Rs.10,95,52,825/-, which amount the appellant is ready and willing to deposit with the respondent-UPSIDA and they have a draft ready for the same.

(2) The second submission is that considering the demand, promotion and government policies of encouraging e-vehicles, the appellant-company has submitted a proposal, according to which within six months the unit at Surajpur Industrial Area will start manufacturing only e-vehicles. Such proposal has been placed along with an application (IA No.47583 of 2024), which application, learned senior counsel submits, may be considered favourably.

(3) That the appellant may approach the State of Uttar Pradesh with their proposal as contained in Clause-2, above.

In response to above, Mr. A.N.S. Nadkarni, learned senior counsel appearing for the UPSIDA submits that according to him the instructions are that the

amount of dues indicated were by the Regional Manager without approval of the competent authority, as such they are not willing to accept the said amount and their stand relating to the cancellation of the allotment still stands.

With respect to the second and third submissions, he prays that some time may be granted to seek response to the application annexing proposal for manufacturing of e-vehicles.

Considering the submissions, we direct the appellant to deposit the bank draft(s) with the Registry of this Court to be kept in a safe custody. However, such deposit would be without prejudice to the rights of the respondent-UPSIDA.

Further, the respondents may file response to the application (IA No.47583 of 2024) within four weeks.

In the meantime, the appellant may submit its proposal to the State Government which may be considered on its own merits in accordance to law.”

9. By the aforesaid order, liberty was granted to the appellant-company to try and negotiate with the State Government for acceptance of their new proposal for manufacturing e-vehicles at Surajpur Industrial Area, Uttar Pradesh. However, the said proposal was ultimately turned down by the State Government, as recorded in the order dated 23rd January, 2025. Accordingly, the matter was posted for hearing, and detailed arguments were advanced on behalf of the parties.

BRIEF FACTS

10. Having taken note of the intervening developments and the abortive attempts at settlement, now, we shall briefly advert to the facts relevant and essential for the disposal of the present appeal.

11. The industrial plot in question was originally allotted on 16th May, 1985 to an entity named, M/s. Stallion Shox Limited. The said entity transferred its rights and interests to the appellant-company's predecessor, M/s. Piaggio (India) Pvt. Ltd., and said transfer was ratified and approved by UPSIDA on 14th December, 2001. A formal lease deed was subsequently executed between M/s. Piaggio (India) Pvt. Ltd. and UPSIDA on 19th March, 2002.

12. A No-Objection Certificate was issued by the U.P. Pollution Control Board, Gomati Nagar, Lucknow to M/s. Piaggio (India) Pvt. Ltd. for setting up the new unit *vide* letter dated 4th July, 2002. Other necessary permissions, including the requisite licenses, were obtained from the Department of Explosives, Ministry of Commerce & Industry, Government of India and the office of Senior Superintendent of Police, Gautam Budh Nagar.

13. Pursuant to grant of such permissions, M/s. Piaggio (India) Pvt. Ltd. claims to have established a state-of-the-art testing facility within the existing constructions on the subject plot. It is further the case of the appellant-company that a significant investment of approximately Rs. 27.89 crores was made for this purpose, and a workforce consisting of more than 300 workmen was employed to operate the testing plant and laboratory.

14. M/s. Piaggio (India) Pvt. Ltd. and M/s. Piaggio Vehicles Ltd. were amalgamated under orders of the High Courts of Mumbai and Delhi pursuant to an application filed under the Companies Act, 1956. The official scheme of amalgamation was sanctioned *vide* orders dated 24th September, 2003 and 26th September, 2003. The allotting authority, namely, UPSIDA, granted permission for change of name of the lessee, and the lease of the industrial plot was accordingly ordered to be transferred to M/s. Piaggio Vehicles Pvt. Ltd., i.e., the appellant-company, *vide* approval letter dated 8th November, 2004. Maintenance charges and lease rent for the intervening period were duly paid by the appellant-company, and consequently, a fresh lease deed dated

10th July, 2007 was executed by UPSIDA in the name of the appellant-company.

15. The appellant-company claims that, by virtue of execution of the aforesaid lease deed, the requirement to raise construction within the original two-year period stipulated under the original lease deed was rendered otiose, as that timeframe had long since expired and was impliedly waived by UPSIDA.

16. In preparation for full operations, the appellant-company acquired an electric connection with requisite load, obtained an Import-Export Code for the premises, and registered itself with the provident fund and the sales tax authorities.

17. However, the appellant-company has admitted that, owing to compelling circumstances, to be specific, the pressure to rapidly scale up manpower and facilities at its alternate facility at Baramati, Maharashtra, the entire industrial set-up could not be installed at the location in question.

18. A letter dated 26th September, 2007 was issued by the Regional Manager, UPSIDA to the appellant-company raising a concern that construction of the industrial unit had neither been commenced/completed nor production had been

started within the period mandated under the lease, and thus, the appellant-company had committed a breach of the covenants as mentioned in sub-clauses (e) and (o) of Clause 3 of the lease deed dated 19th March, 2002.

19. In response, the appellant-company addressed a letter dated 15th October, 2007, to the Regional Manager, UPSIDA, supported by documents and reasons explaining why maximum utilisation of the industrial plot could not be undertaken. In this communication, the appellant-company sought a two-year extension for raising construction and setting up the industry.

20. Subsequently, a letter dated 31st January, 2008 was issued by the Regional Manager, UPSIDA, apprising the appellant-company that, if it was interested in seeking an extension of time, it must deposit a sum of Rs. 35,93,963.60/- (Rupees Thirty Five Lakh Ninety Three Thousand Nine Hundred Sixty Three and Sixty Paise Only), and furnish an affidavit in the annexed format, so that a request for one-year extension could be considered.

21. The appellant-company responded to aforesaid communication of UPSIDA *vide* letter dated 25th

February, 2008, praying that an extension of two years was necessary to make the unit fully functional. This request was reiterated *vide* letter dated 6th March, 2008.

22. On 17th April, 2008, the Joint Managing Director, UPSIDA informed the appellant-company that a two-year extension was not permissible under the extant policy and called upon the appellant-company to show cause as to why the allotment should not be cancelled for failure to fully utilise the plot. The appellant-company responded to the said notice on 22nd April, 2008, conveying that it was not practically feasible to comply with the terms and conditions of the lease deed in totality and repeated the request for grant of two years' extension for bringing the unit into full operation.

23. On 19th May, 2008, the appellant-company deposited a cheque bearing No. 012833 for a sum of Rs.35,93,964/- (Rupees Thirty Five Lakh Ninety Three Thousand Nine Hundred Sixty Four Only), towards the time extension fee, as per the demand raised by UPSIDA. The appellant-company claims that upon contacting the office of UPSIDA, it was informed that the cheque would not be accepted and

that a demand draft must be deposited instead. Accordingly, the appellant-company deposited a demand draft dated 20th June, 2008, drawn on the State Bank of India, Greater Noida, towards the Time Extension Fee.

24. On 25th June, 2008, the Regional Manager, UPSIDA returned the cheque deposited earlier and directed the appellant-company to furnish an affidavit in the requisite format. Pursuant to the aforesaid direction, the appellant-company, *vide* letter dated 1st July, 2008, furnished an affidavit dated 20th June, 2008 executed by its Company Secretary, Shri Ashok Medankar. However, UPSIDA returned the demand draft *vide* letter dated 28th July, 2008, noting that the affidavit was not in the prescribed format and directed its re-submission in the proper form.

25. The appellant-company claims that the said letter was received by it at its operational unit at Baramati, Maharashtra, on 6th August, 2008, whereupon a fresh affidavit dated 11th August, 2008 was executed by its Chairman and Managing Director, Shri Ravi Chopra. Notably, the appellant-company contends that the contents of the

prescribed format were neither relevant nor germane to the peculiar circumstances.

26. Thereafter, the appellant-company's representative approached the office of Regional Manager, UPSIDA, at Surajpur, Uttar Pradesh on 18th August, 2008, for depositing the demand draft along with the affidavit referred to *supra*. Allegedly, the respondent authorities refused to accept the said affidavit on the premise that it had been executed in English and was required to be furnished in Hindi language only.

27. Accordingly, the appellant-company got a fresh affidavit prepared in Hindi, duly sworn by its Company Secretary, Shri Ashok Medankar, and attempted to submit the same along with the demand draft on 20th August, 2008. Although the affidavit and the draft were eventually accepted by an official of UPSIDA, the appellant-company claims that the officials desisted from issuing a formal acknowledgment, allegedly upon specific directions of respondent No. 3. *E-converso*, UPSIDA contends that said demand draft was deposited directly into its account, which stood automatically credited on 23rd

August, 2008, two days prior to the formal issuance of the cancellation letter.

28. The efforts of the appellant-company to retain the plot and seek a further extension were finally rejected by UPSIDA *vide* order dated 25th August, 2008, whereby the lease was cancelled and the premium was forfeited, with the UPSIDA notifying its intention to re-enter the plot.

29. Compelled by these punitive actions, the appellant-company made several representations to UPSIDA for seeking justice and an extension of time. However, upon receiving no relief, the appellant-company proceeded to prefer the captioned writ petition, which stands rejected by the High Court *vide* judgment and order dated 15th October, 2009 which is the subject matter of challenge in this appeal.

SUBMISSIONS ON BEHALF OF THE APPELLANT-COMPANY

30. Shri Amar Dave, learned senior counsel appearing for the appellant-company, advanced the following submissions to urge that the determination of the lease and the refusal of the authorities to extend the period for setting up the industrial unit, is

highly arbitrary, unjustified, and contrary to the applicable rules and provisions.

31. He submitted that the appellant-company, from the very inception, sincerely and faithfully intended to set up an industrial unit on the subject plot. However, it was prevented from doing so within the stipulated time frame because, in the very same period, the appellant-company was required to rapidly scale up its manufacturing facility at Baramati, Maharashtra. Hence, the appellant-company was *bona fide* prevented from commencing full-scale industrial activities on the plot in question.

32. It was submitted that the appellant-company regularly pursued the matter with the concerned authorities, repeatedly praying for an extension of time so that the construction of the industrial unit could be completed. However, the authorities acted with closed minds and refused to acknowledge the genuine request of the appellant-company.

33. An extension fee to the tune of Rs. 35,93,964/- (Rupees Thirty Five Lakh Ninety Three Thousand Nine Hundred Sixty Four Only), was deposited by the appellant-company with the respondent authorities in furtherance of the communication received from

UPSIDA on 31st January, 2008. Hence, as per Shri Dave, UPSIDA is estopped from taking a contrary stand and denying the benefit of extension of time to the appellant-company.

34. Shri Dave submitted that now, the erstwhile provision of the Uttar Pradesh Industrial Area Development Act, 1976 has been amended⁴ in the following terms:-

“2. Amendment of Section 7 of U.P. Act no. 6 of 1976.-In Section 7 of the Uttar Pradesh Industrial Area Development Act, 1976 the following proviso shall be *inserted*, namely:-

“Provided that where any land so allotted is not utilized for the purpose for which it was allotted within the period of five years from the date of possession or within the period fixed for such utilisation in the conditions of allotment, whichever is longer, the lease deed will stand cancelled and the land shall vest with the Authority.

Provided further where the aforesaid period has already lapsed before the commencement of this Act, the Authority shall give a notice to the allottee to use the land for the purpose for which it was allotted within a period of one year and if within the above period of one year the allottee does not use the land, then the allotment and lease deed shall stand automatically cancelled.”

⁴ Uttar Pradesh Industrial Area Development (Amendment) Act, 2020.

35. Shri Dave contended that the aforesaid provision gives liberty to UPSIDA to grant extension of a further period of one year before the drastic action of cancellation of the lease is taken. He further submitted that the respondents have renewed the leases of various allottees placed at par with the appellant-company.

36. Shri Dave further submitted that the allotment rate of land by UPSIDA in the Surajpur area is Rs.10,320/- per sq. meter, whereas the circle rate determined by the District Magistrate is only Rs.6,500/- per sq. meter. The total value of land, calculated as per the allotment rate of UPSIDA, works out to Rs. 138 crores. The appellant-company has already deposited a sum of Rs.10,95,52,825/- (Rupees Ten Crore Ninety Five Lakh Fifty Two Thousand Eight Hundred Twenty Five Only) in the Registry of this Court, which, including accrued interest in the fixed deposit receipt, currently totals Rs. 11,73,75,386/- (Rupees Eleven Crore Seventy Three Lakh Seventy Five Thousand Three Hundred Eighty Six Only) and is ready to deposit the balance

amount in terms of the allotment rate of UPSIDA⁵ so as to seek restoration of the lease. He, therefore, submitted that it is a fit case where, this Court should feel persuaded to exercise its extraordinary jurisdiction so as to balance the equities by extending the period and directing restoration of allotment in favour of the appellant-company.

37. He also urged that, under the Electric Vehicle Policy of the Government of India, UPSIDA is now allotting plots to genuine parties on a walk-in basis, and hence it is a fit case wherein this Court should exercise its jurisdiction in favour of restoration by setting aside cancellation, particularly as the appellant-company, being a premier manufacturer in the electric vehicle segment, is keen to establish its unit at the subject location for manufacture of electric vehicles.

38. On these grounds, learned counsel for the appellant-company, sought reversal of the impugned judgment and prayed that the appeal be allowed.

⁵ *Supra.*

SUBMISSIONS ON BEHALF OF THE RESPONDENTS

39. *Per contra*, Shri Atmaram N.S. Nadkarni, learned senior counsel representing UPSIDA, urged that the appellant-company has acted in gross violation of the requirements of the lease deed right from the inception. The plot in question, which was originally allotted to M/s. Stallion Shox Limited, was transferred to the appellant-company's sister concern M/s. Piaggio (India) Pvt. Ltd., way back on 14th December, 2001. Shri Nadkarni referred to the original transfer letter, which contains the following stipulation:-

"7. The transferee will submit definite time bound programme for completion of the construction and/or implementation of the project on the aforesaid plot not exceeding two years."

(Emphasis supplied)

40. He also referred to a letter dated 30th April, 2002 forwarded by UPSIDA to the appellant-company and relied upon condition No. 11 of the said letter which reads as below:-

"11. The applicant will submit Fire NOC & Pollution NOC within one month from the date of dispatch of this sanction memo otherwise the approval will be assumed cancelled without information."

41. Shri Nadkarni submitted that the sub-clause (o) of Clause 3 of the lease deed executed between the parties on 19th March, 2002, unequivocally mandated that the lessee shall raise construction on the demised land and put the same to use within six calendar months from the date of possession, or within such extended period, as the lessor may allow in writing. Furthermore, Clause 5 of the lease deed stipulated that the lessee shall put up whole of the demised property to industrial use to the satisfaction of the lessor, who reserved the right to determine the lease in respect of such portion of the plot as had not been put to use within a reasonable time.

42. Shri Nadkarni pointed out that when possession of the plot was handed over to M/s. Piaggio (India) Pvt. Ltd., construction covering 7.68% of the area pre-existed on the said plot, having being completed by the original allottee, M/s. Stallion Shox Limited. He urged that the appellant-company did not put up a single brick on the subject land over and above what already existed.

43. Pursuant to the amalgamation, the appellant-company issued a letter dated 24th November, 2003,

in which it expressly agreed and undertook to abide by the terms and conditions of the original lease deed. Consequently, permission for change of name of the lessee was granted by UPSIDA *vide* letter dated 8th November, 2004, subject to the conditions set out below:-

- “1. You will have to pay our dues time to time as demanded.
2. All the terms and conditions of allotment letter dated 16.05.1985, transfer letter dated 14.12.2001 and lease deed executed on 19.03.2002 shall all remain unchanged.”

44. The fresh lease deed executed between the parties on 10th July, 2007 was only a formal document, executed solely to reflect the change of name following the amalgamation of companies. In that view of the matter, the substantive stipulations contained in the original lease deed remain unaltered.

45. It is the specific case of UPSIDA that even after lapse of six years since the execution of the lease deed dated 19th March, 2002, no construction was raised on the demised land, and no effort whatsoever was made by the appellant-company for commencing the industrial activities. Thus, learned counsel for the

respondents urged that the appellant-company was in clear breach of sub-clauses (e) and (o) of Clause 3 of the lease deed dated 19th March, 2002. A notice dated 26th September, 2007 was accordingly issued to the appellant-company setting out the concerns regarding breach of the lease conditions. In its response dated 15th October, 2007, the appellant-company admitted the breach and offered an unconvincing justification for the delay stating that it had been under pressure to scale up manpower and facilities at its unit in Baramati, Maharashtra which caused a slight set back at the Surajpur site, Uttar Pradesh and requested a two-year extension to achieve peak operations.

46. Shri Nadkarni referred to a letter dated 31st January, 2008 issued by the Regional Manager, UPSIDA requiring the appellant-company to deposit a sum of Rs.35,93,963.60/- (Rupees Thirty Five Lakh Ninety Three Thousand Nine Hundred Sixty Three and Sixty Paise Only), and submission of an affidavit in the prescribed format, so that the prayer for extension of one-year could be considered. He urged that as late as January, 2008, the appellant-company had not shown any intent to set up the

manufacturing unit, as even the approved site plan was not in existence till that date.

47. In spite of the intimation dated 31st January, 2008, neither the time extension fee was paid nor was the required affidavit furnished. A belated letter dated 6th March, 2008 was thereafter forwarded by the appellant-company informing that, due to the compelling circumstances and lack of resources, the unit could not be made fully functional, once again highlighting the appellant-company's focus on expanding its three-wheeler manufacturing facility in Baramati, Maharashtra.

48. In response, the Joint Managing Director, UPSIDA forwarded a letter dated 17th April, 2008 refusing the prayer for grant of extension for two years and requiring the appellant-company to show cause as to why the allotment of the plot should not be cancelled. Shri Nadkarni relied upon the following extracts from the said letter to buttress the contention that the appellant-company never demonstrated a *bona fide* intention to establish the manufacturing unit on the subject plot:-

“Please refer to your letter dated 25.02.08 vide which you have requested for allowing two years

time extension to make the unit on the plot fully operational. It is understood that the said application has been filed by you after receiving a notice dated 26.9.07 & 31.1.2008 for meager utilization of the plot admeasuring 33 acres. Your above letter written after five months of original notice still lacks any concrete proposal for the full utilization of the plot. You have casually asked for two years time extension without giving any time bound programme etc.

As you are aware that the plot no. A-1 Industrial Area, Surajpur side-B Distt Gautam Budh Nagar was leased to you on 10.7.2007. The condition no.5 of the lease deed clearly state 'Notwithstanding any other provision herein before contained to the contrary the lessee shall put up the whole of the property demised under this present for the industrial use to the satisfaction of the lessor and the lessor shall have the right to, determine the lease of that much area of the plot of land demised which has not been actually so put to use within a reasonable time at its discretion or even to determine the lease of the whole of the land demised under these present. The decision of the lessor shall be binding with regard to the extent of the user as aforesaid as to whether the whole of demised land has been unutilised or only a portion has been used and the lessee shall be bound by the decision of the lessor in this regard. The lessee hereby expressly agrees to the determination of the lease in n part at the discretion of the lessor.

As per records available in office only 7.68% of sanctioned building plan area has been covered by the you and no construction or production activity was witnessed on the plot. You will appreciate that you have utilized very minute portion of the pot by keeping the major portion of the plot unutilized you are denying the opportunity to the other genuine interested entrepreneurs to set functional unit on

plot, needless to say that establishment of industry covering optimum land is the prime motive for allotment of the plot as it would result in generation of employment for the local populace.

Your request for further time extension for two years is not permissible under the present policy of corporation. You are required to show cause as to why the allotment of the plot be not cancelled in accordance to the condition of the lease deed as elaborated above for fully utilize the leased to you.”

49. Shri Nadkarni further submitted that the prescribed format of the affidavit, required to be furnished by the appellant-company for extension of time, contained a declaration in clear terms that if within nine months of extension granted, the unit does not commence production, UPSIDA shall cancel the lease of the plot, and the appellant-company would be precluded from raising any dispute against such action.

50. He submitted that the affidavit in the prescribed format was intentionally not furnished by the appellant-company and hence, the only logical outcome was to terminate the lease granted in favour of the appellant-company, on account of its failure to comply with the terms and conditions of the lease deed as well as notices dated 26th September, 2007 and 17th April, 2008.

51. Shri Nadkarni further urged that a subsequent letter dated 28th August 2008, along with the affidavit in the prescribed format, was received by the respondents on 1st September, 2008, i.e., well after the lease deed had been terminated on 25th August, 2008. He submitted that even in the delayed affidavit, no clear intent to commence production was expressed.

52. Shri Nadkarni also referred to the Authorities Operating Manual, 2011, to contend that where an allottee has been unsuccessful in challenging the cancellation of a plot before any court, such allottee would not be entitled to the benefit of the restoration policy. This contention was raised to oppose the plea advanced by the learned senior counsel for the appellant-company, who had urged that the plot in question could and ought to be restored under the respondents' restoration policy.

53. On the aspect of the prescribed rates referred to by Shri Dave, Shri Nadkarni submitted that plots of similar size at the location in question upon being auctioned by UPSIDA, have fetched revenue of almost Rs. 300 crores.

54. Shri Nadkarni concluded his submissions urging that as the appellant-company is in clear violation of the terms and conditions of the lease deed, it does not deserve any degree of equitable relief in exercise of the extraordinary jurisdiction conferred upon this Court under Article 136 of the Constitution of India and sought dismissal of the appeal.

ANALYSIS AND DISCUSSION

55. We have heard learned counsel for the parties at length and have carefully considered the material placed on record and so also the impugned judgment.

56. Since the matter pertains to cancellation of industrial plot issued to the appellant-company, it would be apposite to refer to the objectives behind establishment of an industrial area/industrial corridors as contained in the article titled ***“Concept of Industrial Corridors and International Best Practices”***⁶:-

“Key features of industrial corridors

1. Integrated infrastructure: Industrial corridors feature robust infrastructure that includes multimodal transport systems, utilities and

⁶ Invest India, ***“Concept of Industrial Corridors and International Best Practices”*** available at: <https://www.investindia.gov.in/blogs/concept-industrial-corridors-and-international-best-practices#:~:text=This%20includes%20prebuilt%20industrial%20plots,%2C%20investment%2Dfriendly%20smart%20cities.>

Information and Communication Technology-enabled (ICT-enabled) services. This infrastructure is designed to support the operational needs of industries and facilitate seamless movement of goods.

2. Plug-and-play facilities: Many successful corridors offer ready-to-use facilities that allow businesses to start operations with minimal set-up time. This includes prebuilt industrial plots, access to utilities and streamlined regulatory processes.

3. Sustainability initiatives: Modern industrial corridors incorporate sustainable practices such as waste recycling, renewable energy utilization and green building standards to minimize environmental impact.

4. Skill development and employment generation: These corridors often focus on creating a skilled workforce through training programs and partnerships with educational institutions, thereby enhancing local employment opportunities.

5. Special Economic Zones: industrial corridors often include special economic zones that provide tax incentives and regulatory advantages to attract foreign investment and promote exports.

6. Public-Private Partnerships: Successful industrial corridors are often developed through collaborations between government bodies and private enterprises, ensuring efficient resource allocation and management.

7. Walk-to-work culture: It reduces traffic and pollution, promotes healthier lifestyles and boosts productivity by minimizing commuting time. Supported by pedestrian-friendly infrastructure, green spaces and efficient public transport, it enhances work-life balance and creates appealing Investment-friendly smart cities.”(Emphasis supplied)

57. Seen in light of the above objectives, it is apparent that the primary purposes behind establishment of an industrial area are to generate revenue, create employment opportunities and foster overall economic development of the area in question. The allottees, in turn, are granted large tracts of land at subsidised rates, supported by infrastructural developments intended to transform the area into a wholesome productive industrial hub.

58. To achieve these salutary objectives, the allottees are mandated to strictly comply with the terms and conditions of allotment, including time-bound schedules for project implementation. The lease deed executed *inter se* between the parties is the governing instrument of this relationship, and the parties are legally bound by its covenants.

59. In the present matter, UPSIDA contends that the obligations regarding construction and commencement of production remained binding and unchanged even after execution of the subsequent lease deed in 2007. It is therefore apposite to reproduce the relevant clauses of the lease deed dated 19th March, 2002, as they are directly relevant

and germane to the present controversy regarding the alleged breach of industrial use:-

**“3. AND THE LESSEE DOTH HEREBY
COVENANT WITH THE LESSOR AS UNDER:**

(e) That the Lessee will keep the demised premises and the buildings thereon at all times in a state of good and substantial repairs and in sanitary condition at its own costs.

...

(o) That the Lessee shall put the demised premises with the buildings constructed thereon to the use hereinbefore mentioned within 06 calendar month from the date of possession of the said land is handed over to him and in any case within six (6) calendar month from the date of this deed or such extended period of time as may be allowed by the lessor in writing in its discretion provided that the extension of time for putting the premises to use under this clause shall not be admissible except wherein the opinion of the lessor the delay is caused for reasons beyond the control of the Lessee.

5. Notwithstanding any other provisions hereinbefore contained to the contrary the Lessee shall put up the whole of the property demised under this presents for the Industrial use to the satisfaction of the Lessor and the lessor shall have the right to determine the Lease of that much area of the plot of land demised which has not been actually so put to use within a reasonable time at its discretion or even to determine the lease of the whole of the land demised under these presents. The decision of the Lessor shall be binding with regard to the extent of the user as aforesaid as to whether the whole of demised land has been utilized or only a portion has been used and the

Lessee shall be bound by the decision of the lessor in this regard. The Lessee hereby expressly agrees to the determination of the lease in part of the discretion of the same.”

60. Clauses 3(e) and 3(o) of the lease deed make it abundantly clear that the lessee, upon execution of the lease deed and handing over of possession, would be under an obligation to raise construction of the industrial unit within the stipulated period of six months, or within such extended period as may be allowed.

61. It is a matter of record, and a focal contention raised by Shri Nadkarni, learned senior counsel representing UPSIDA, that no construction was ever raised by the appellant-company on the leased industrial plot. Rather, the appellant-company claims to have operated a testing facility within the pre-existing constructions that had been raised by the erstwhile allottee, M/s. Stallion Shox Limited.

62. During the course of submissions, a pertinent query was posed to learned senior counsel Shri Amar Dave as to whether the appellant-company had ever submitted any proposal for approval of a layout plan. In response whereto, Shri Dave candidly conceded that such approved layout plan is not available with

the appellant-company. However, his contention was that the layout plan must have been submitted at the time of obtaining other approvals, *viz.*, pollution control clearance, electricity connection, etc. and that the respondents would be in possession of the approved plan in their records. We, *prima facie*, find the said submission to be fallacious and untenable. The appellant-company, being a well-established corporate entity, cannot be allowed to take refuge behind the veil of ignorance.

63. Thus, there is no escape from the conclusion that, right from the date of the grant of lease to the sister concern of the appellant-company on 14th December, 2001 till the events leading to cancellation of the lease deed on 25th August, 2008, the appellant-company failed to demonstrate any convincing effort or *bona fide* intent to establish a full-scale industrial manufacturing unit on the plot in question.

64. Shri Dave tried to draw much water out of the fact that in the year 2008, UPSIDA itself invited the appellant-company to apply for an extension by depositing an extension fee to the tune of Rs.35,93,963.60/- (Rupees Thirty Five Lakh Ninety Three Thousand Nine Hundred Sixty Three and Sixty

Paise Only), which the appellant-company claims to have timely paid. However, the said submission of Shri Dave is also without any merit. In this regard, we may refer to the letters dated 26th September 2007, 31st January 2008, and 17th April 2008 issued by UPSIDA, which clearly convey that any consideration for extension was strictly conditional upon the timely payment of fee and submission of an affidavit in a prescribed format, a condition which the appellant-company admittedly failed to fulfil by the date fixed for this purpose.

65. It may further be noted that possession of the plot in question was handed over to M/s. Piaggio (India) Pvt. Ltd., the erstwhile entity, on 4th April, 2002, at which time construction raised by M/s. Stallion Shox Limited pre-existed over 7.68% of the plot area. Pursuant to the amalgamation of the two companies, i.e., M/s. Piaggio (India) Pvt. Ltd. and M/s. Piaggio Vehicles Pvt. Ltd., UPSIDA granted permission for change of name of the lessee, with a specific stipulation that all terms and conditions of the allotment letter dated 16th May, 1985; transfer letter dated 14th December, 2001; and original lease deed dated 19th March, 2002; shall remain unaltered.

The fresh lease deed dated 10th July, 2007, was executed merely to reflect this change in name of the lessee, and the fundamental conditions of the original lease dated 19th March, 2002 remained unaltered. Hence, the inviolable conditions contained in the lease deed requiring the appellant-company to raise construction on the subject plot within the period stipulated were never modified, altered or extended.

66. Ignoring all violations by the appellant-company, UPSIDA issued a letter dated 26th September, 2007, informing the appellant-company that it was in breach of Clauses 3(e) and 3(o) of the lease deed dated 19th March, 2002. In its response dated 15th October, 2007, the appellant-company admitted that it was under pressure for scaling up manpower and facilities at its unit at Baramati, Maharashtra and hence, it had been unable to commence full-fledged operations at Surajpur, Uttar Pradesh. However, even in said letter, the appellant-company did not indicate that any meaningful industrial activity, including the so called testing activities, had ever been undertaken on the subject plot during the preceding six years.

67. By the very same letter, the appellant-company had also sought extension of two years to enable it to operate at peak level on the plot in question. In response, UPSIDA forwarded a letter dated 31st January, 2008, asserting, *inter alia*, that as per condition No.7 of the transfer letter, construction was to be completed within two years. UPSIDA also noted that although the lease deed had been executed on 19th March, 2002, even by 2008, the appellant-company had failed to obtain sanction of the site plan, let alone commence operations. By dint of this letter, the appellant-company was granted thirty days' time to furnish an affidavit in the **prescribed format** and to deposit a sum of Rs.35,93,963.60/- (Rupees Thirty Five Lakh Ninety Three Thousand Nine Hundred Sixty Three and Sixty Paise Only), so that one-year's extension could be considered. Admittedly, the appellant-company failed to deposit the extension fee within stipulated period of thirty days, as the fee came to be deposited only after the cancellation letter dated 25th August, 2008 was issued by UPSIDA and in addition thereto, the affidavit was also not submitted in time or in the requisite format.

68. The prescribed format of the affidavit has a material bearing on the present controversy, and hence the same is reproduced hereinbelow for the sake of ready reference:-

“AFFIDAVIT ON RS. 10 STAMP PAPER DULY
NOTRISED

1 That within three months of extension of time of plot No. A-1, Site B, Surajpur Industrial Area, Greater Noida, G.B Nagar, UP, the construction shall start and within nine months the production on the unit shall start.

2. That if within nine months of extension, the unit does not start production, the corporation shall cancel the plot and the allottee /transferee shall not raise any dispute against the cancellation of the plot and within thirty days of the cancellation the physical possession of the plot shall be surrendered.

3. That the time extension fee be paid during extended period according to rules.

4. That during extended period, the transfer of the plot in favour of any other industrial house shall not be valid.

5. That above facts are true to my knowledge and belief.”

69. Condition No. 1 of the prescribed format required that the construction of the unit must start within three months of extension and production must commence within nine months thereof. Condition No.2 of the prescribed format explicitly provides that if the unit fails to commence production within the stipulated period from grant of extension,

UPSIDA shall cancel the allotment of the plot, and the allottee/transferee shall not be allowed to raise any dispute against such cancellation and must surrender physical possession of the plot within the thirty days of the cancellation.

70. Three affidavits were executed and furnished by the appellant-company on different dates in response to the notice for cancellation issued by UPSIDA. The first affidavit sworn on 20th June, 2008, submitted *vide* letter dated 1st July, 2008, was executed by Shri Ashok Medankar and reads as follows:-

“

01 July 2008

To
The Regional Manager
Up State Industrial Development Corpn. Ltd.
Site-V, Kasna Surajpur
Greater Noida (UP)

Ref: Lease extension of Plot No.A-1 industrial
Area, Site-B, Surajpur.

Dear Sir
Please find enclosed herewith the Affidavit as
desired by you, for the purpose of the extension
of the Lease of our plot at A-1 Industrial Area,

Site-B, Surajpur.
Thanking you
For Piaggio Vehicles Pvt. Ltd.

ANIL KUMAR
Head-Administration

Encl. Affidavit

AFFIDAVIT

I, Ashok Medankar S/o Mr. D.R. Medankar, Company Secretary of Mis Piaggio Vehiclas Pvt. Ltd. having its registered office at E-2, MIDC Area, Baramati, Pune, do hereby solemnly affirm and declare as under: -

1. I say that I am working as Company Secretary with Mis Piaggio Vehicles Pvt. Ltd.
2. I say that the company has established a state of art testing plant and machinery at A.1, Industrial Area, Surajpur, Side-B, Greater Noida, Gautam Budh Nagar and the research and development work is in progress at the said site.
3. I say that the Chairman and Managing Director had already announced several projects viz. manufacturing of diesel engines for home. consumption and for export.
4. The company would generate revenue to the State as well as Central Government in the form of sales tax excise tax, service tax, VAT etc.
5. I say that the company has already established its huge plant at Baramati, Maharashtra having the annual turnover of more than Rs. 1400 Crores.
6. I say that the company would comply with the terms and conditions of the lease deed and pay all the leviabale tax/fee.

DEPONENT

VERIFICATION:-

I, the above named deponent, do hereby verify that the contents of the above Affidavit are true and correct to the best of my knowledge and nothing material has been concealed there from.

Verified at Pune on this 20th day of June 2008.
DEPONENT”

71. A bare perusal of the aforesaid affidavit clearly indicates that there is no reference whatsoever to mandatory condition Nos. 1 and 2⁷ of the prescribed format forwarded by UPSIDA to the appellant-company. This omission was calculated and intentional, as furnishing the affidavit in the prescribed format would have legally bound the appellant-company to those specific terms, i.e., to undertake the construction within three months of grant of extension and to commence the production within nine months thereof. The appellant-company was undeniably aware that the production could not start within the stipulated period of nine months, because, as noted above, it had not even sought approval of any site plan to raise construction on the plot in question.

72. The appellant-company has admitted that the subsequent affidavit dated 11th August, 2008, sworn by its Chairman and Managing Director, could not be submitted in time due to the requirement of a Hindi translation. In addition, the fact remains that even

⁷ *Supra*, para No. 68.

the prescribed affidavit dated 20th August, 2008, sworn by Company Secretary, Shri Ashok Medankar, along with the application for further extension and demand draft, was received only after the cancellation letter dated 25th August, 2008 had already been issued by UPSIDA.

73. Otherwise also, the lackadaisical conduct of the appellant-company in failing to adhere to the terms and conditions of the lease deed, and thereby delaying development of the industrial plot by almost six to seven years, as against the mandatory period of six months prescribed under the lease deed, would equally disentitle it to discretionary relief. Equities cannot work in favour of the litigants whose conduct is callous, laconic and in clear violation of the applicable rules and regulations.

74. The fervent endeavour made by Shri Dave to convince the Court that the appellant-company should be considered for allotment of the plot under the Electric Vehicle Policy of the Government of Uttar Pradesh, also does not persuade us for a moment. Upon perusing the pleadings of the writ petition filed before the High Court and so also the appeal by special leave, we find no averment which can even

remotely or vaguely indicate the details of the persons or entities in whose favour such discretion has been exercised by UPSIDA. It may be noted that though the Government may have devised a policy for liberal licensing in favour of Electric Vehicle manufacturers, but there is no material on record to suggest that, should the appellant-company fail to establish the unit, there would be no other takers for the plot.

75. Shri Nadkarni, emphatically, refuted such contention and urged that UPSIDA, in its own wisdom, does not possess the jurisdiction to renew or restore a lease deed which has already been cancelled for valid reasons. He further submitted that such discretion, if at all, could in all probability have been exercised by the State Government.

76. Shri Nadkarni also urged that plots of similar measurement in the same industrial area i.e., Surajpur, Uttar Pradesh, have been auctioned for nearly Rs. 300 crores.

77. In addition thereto, we feel that it is absolutely in the domain of the State Government to consider the case of a particular applicant for grant of an industrial plot at concessional rate, and this Court, in exercise of its extraordinary jurisdiction under

Article 136 of the Constitution of India, would be loath to substitute its own discretion for that of the State Government in such commercial decisions.

78. In this background, we are of the firm opinion that the appellant-company has failed to make out a case for grant of equitable relief in exercise of the extraordinary jurisdiction of this Court under Article 136 of the Constitution of India.

CONCLUSION

79. In wake of the above discussion, we find no reason to interfere with the impugned judgment which does not suffer from any error or infirmity warranting interference.

80. Consequently, the appeal being devoid of merit is rejected.

81. The appellant-company shall forthwith and not later than a period of thirty days from today handover the vacant and peaceful possession of the subject plot to UPSIDA, which would be at liberty to deal with the plot as per law. The amount of Rs.10,95,52,825/- (Rupees Ten Crore Ninety Five Lakh Fifty Two Thousand Eight Hundred Twenty Five Only), deposited by the appellant-company in this

Court, shall be refunded to the appellant-company, along with the accrued interest thereon.

82. Pending application(s), if any, shall stand disposed of.

.....J.
(VIKRAM NATH)

.....J.
(SANDEEP MEHTA)

.....J.
(N.V. ANJARIA)

**NEW DELHI;
APRIL 06, 2026.**